

REMARKS

This amendment is responsive to the non-final Office Action issued October 28, 2010. Reconsideration and allowance of claims 9-12, and 24-43 are requested.

The Office Action

Claims 1-8 and 13-23 stand withdrawn.

Claims 9-12 stand rejected under 35 U.S.C. § 112, second paragraph, and under 35 U.S.C. § 102 over Reisfeld (US 6,633,773).

Claim 24 does not stand rejected or withdrawn. Accordingly, it is understood that claim 24 contains allowable subject matter.

All Claims Should Be Examined

New method claim 36 and new computer-readable medium claim 43 have been written to meet the requirements for rejoinder set forth in paragraph 4 of the Office Action of July 7, 2010. Moreover, the present application is a national stage entry of a PCT application and claims 9, 36, and 43 meet the PCT unity of invention requirements. Accordingly, it is submitted that claims 9, 36, and 43 and claims dependent therefrom should all be examined.

Claim 24 does not stand withdrawn. Nor does claim 24 stand rejected. The applicant has placed claim 24 in condition for allowance by placing it in independent form including all of the subject matter of its parent claim.

Apparatus claim 33 could have been written as a dependent claim depending and further limiting claim 9. However, because claim 33 further refines numerous different parts of claim 9, it is submitted that such a dependent claim would be awkward. Accordingly, claim 33 has been written as an independent claim.

New claim 41 corresponds sufficiently closely to claim 33 as to meet the requirements for rejoinder set forth by the Examiner, and meets the PCT unity of invention rules. Accordingly, it is submitted that claim 33 and 41 should be examined.

New apparatus claim 34 and corresponding method claim 42 set forth analogous concepts to claims 9 and 36, but expressed with different linguistics.

Accordingly, it is submitted that claims 34 and 42 will have the same search as the other claims, will be no substantial additional burden on the Examiner, and should be examined with the remaining claims.

35 U.S.C. § 112

Claims 9-12 have been amended following the Examiner's suggestions. Accordingly, it is submitted that all claims now comply with the requirements of 35 U.S.C. § 112.

The Claims Are Not Anticipated by Reisfeld

In the 35 U.S.C. § 112 rejection, the Examiner indicated that he considered the functions performed by the computer to be mere matters of intended use rather than positive limitations. The claims have now been amended to set forth these concepts as positive limitations. With these limitations no longer being properly interpretable as statements of intended use, it is submitted that none of the claims are anticipated by Reisfeld.

Moreover, claim 9 calls for the processor to calculate convex hulls. Column 2, lines 17-22 of Reisfeld, referenced by the Examiner, do not call for calculating a convex hull.

Claim 9 further calls for determining when a perturbation has occurred in one or more of the convex hulls. Reisfeld is not asserted to and, indeed, does not call for determining when a perturbation occurs in a convex hull.

Claim 9 calls for presenting an alert to a user in response to a perturbation occurring. By distinction, Reisfeld is directed to an image reconstruction technique rather than a technique for alerting a user.

Accordingly, it is submitted that claim 9 and claims 10-12 and 25-32 dependent therefrom are not anticipated by Reisfeld.

Method claim 36 and computer-readable medium claim 43 have similar limitations. Accordingly, it is submitted that claim 36 and claims 37-40 dependent therefrom are not anticipated by Reisfeld.

Claim 24, which does not stand rejected on art, has been placed in independent form. Accordingly, it is submitted that claim 24 distinguishes patentably over the references of record.

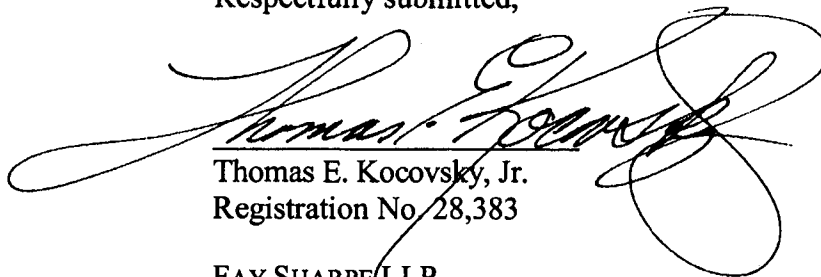
The other claims include limitations which are analogous to one or more of the above-discussed distinctions. Accordingly, it is submitted that the remaining claims are not anticipated by Reisfeld.

CONCLUSION

For the reasons set forth above, it is submitted that claims 9-12, and 24-43 are not anticipated by Reisfeld and comply with the other statutory requirements. An early allowance of all claims is requested.

In the event the Examiner considers personal contact advantageous to the disposition of this case, the Examiner is requested to telephone Thomas Kocovsky at 216.363.9000.

Respectfully submitted,

A large, stylized handwritten signature in black ink, which appears to read "Thomas E. Kocovsky, Jr.", is written over a horizontal line.

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